

BEFORE THE DISTRICT CONSUMER DISPUTES REDRESSAL  
FORUM, COLLECTORATE CAMPUS, COIMBATORE-18.

Present: Thiru R.DHANDAPANI, B.Sc.,B.L.,      President

Tmt.S.SARASWATHI, B.Sc.,      Member

C.C.NO.392/2012      Thursday, the 25<sup>th</sup> day of April, 2013

N.Manikandan

24/102, Centre Street Kallimadai, Singanallur -post  
Coimbatore – 641005

..... Complainant

... Vs ...

The Commissioner, (The Public Information officer  
Coimbatore Corporation Town Hall, Coimbatore – 641001  
... Opposite Party

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This case coming on for final hearing before us on 16.4.13 in the presence of M/s.S.Gobinathan and others, Advocates for complainant and of Mr.K.Rajasekar, Advocate for opposite party and upon perusing the case records and hearing the arguments and the case having stood over to this day for consideration, this Forum passed the following:

ORDER

THIRU R.DHANDAPANI, PRESIDENT

Complaint under Section 12 of the Consumer Protection Act, 1986.

The gist of the complainant's case is that the opposite party has committed deficiency in service by failing to supply the information sought by him under the Right to Information Act, 2005 and it has caused loss and mental agony to him. On 5.1.12 the complainant submitted an application under the Right to Information Act, 2005 and the opposite party received it on 6.1.12. The complainant was eagerly waiting for the information to be supplied by the opposite party. However, the opposite party has not sent any reply to the complainant's application. Therefore, it is a case of deficiency in service. Hence the opposite party may be directed to pay a compensation of Rs.1,00,000/- for the deficiency of service which has caused loss and mental agony to him and to pay cost of litigation.

2. The opposite party filed a written version, inter alia, contending that this Forum has no jurisdiction to entertain the present complaint and that the information sought for by the complainant related to a third party from whom

necessary consent has to be obtained but that third party could not be traced. The opposite party received the letter sent by the complainant on 9.1.12. On 20.1.12 the opposite party wrote a letter to the complainant that the information sought from them is concerned with the third party and only after obtaining necessary affidavit in consent from that party the information sought can be furnished. But the opposite party even after their utmost efforts was unable to find the whereabouts of the said third party. The complainant very well knows that the information sought by him is not available with the opposite party but has purposely come forward with the present complaint. The complaint is therefore liable to be dismissed.

*3. The points that arise for consideration in this complaint are:-*

- 1. Whether the opposite party has committed any deficiency in service?*
- 2. Whether the complainant is entitled to compensation?*

4. On behalf of the complainant, the Proof Affidavit of the complainant was filed and Exhibits A1 to A4 was marked.

5. On the side of the opposite party, the Proof Affidavit of the opposite party was filed and no exhibits were marked.

*Point No.1:-*

6. The grievance of the complainant is that the opposite party has committed deficiency in service by failing to supply the information sought by him under the Right to Information Act, 2005 and it has caused loss and mental agony to him.

7. Per contra, the opposite party contends that this Forum has no jurisdiction to entertain the present complaint and that the information sought for by the complainant related to a third party from whom necessary consent has to be obtained but that third party could not be traced.

8. Though the Right information Act, 2005 provides remedies by way of appeal to the complainant, the complainant being a consumer can seek compensation before this Forum for any deficiency in service committed by the service provider. Hence, we hold that this Forum has jurisdiction to entertain the complaint. The point NO.1 is answered accordingly.

*Point Nos.2 & 3:-*

9. According to the complainant, the opposite party has committed deficiency of service by not furnishing the information sought by him in his application dt.5.1.12. Though the opposite party contends that the Information sought by the complainant is concerned with the Third party and only after obtaining necessary consent from that party, the information sought can be

furnished, till date, the opposite party has not disclosed the name of the opposite party and the reasons for not obtaining his consent.

10. The information sought by the complainant under Ex.A1 contained questions relating to description of property which is located in TS No.36 (SF no.269 Block No.25, Ward No.31 Ward Upplipalayam of Singanallur coming under the eastern division of the Coimbatore Municipal Corporation. Whiles, there is no impediment for the opposite party to furnish the available information with regard to the above subject.

11. Though the opposite party contends that he sent a reply to the complainant in this regard it is not produced before this Forum.

12. From the above facts, it is evident that the opposite party has failed to furnish the information sought by the complainant under the Right Information Act, 2005 under his application Ex.A1.

13. Ex.A4 is the legal notice sent by the complainant through his counsel on 3.7.12 wherein he has called upon the opposite party to pay compensation of Rs.25,000/- for failing to furnish the intimation sought by him.

14. Under Ex.A3, Postal Acknowledgement Card, the opposite party has received the above notice on 5.7.12. However the opposite party has not sent any reply to the complainant.

15. Failure to send reply to the notice of the consumer is also a case of deficiency in service.

16. Inasmuch as the opposite party has not sent any reply to the notice of the complainant it has to be presumed that he has admitted the allegations contained therein.

17. Considering the above facts and evidence, we hold the opposite party has committed deficiency in service and the complainant is entitled to compensation. Points 1 and 2 are answered accordingly.

18. *In the result, the complaint is allowed. We direct the opposite party (a) to pay a sum of Rs.10,000/- towards compensation for mental agony caused to the complainant due to the deficiency in service; and (b) to pay a sum of Rs.1000/- towards cost of the proceedings within a period of two months from the date of this order failing which the complainant is at liberty to execute this order u/s. 25 and 27 of the Consumer Protection Act, 1986.*

Pronounced by us in Open Forum on this the 25<sup>th</sup> day of April, 2012.

Sd/-

(S.SARASWATHI)

Member

Sd/-

(R.DHANDAPANI)

President

List of Exhibits marked for the complainant:-

1. Ex.A1/31.3.12 Application of the complainant under 6.1 of the RTI Act
2. Ex.A2/21.6.12 Postal ack. card
3. Ex.A3/2.6.12 Postal ack. card
4. Ex.A4/3.7.12 Legal notice sent by the complainant's counsel  
to the opposite party

List of Exhibits marked for the opposite party:- ...Nil...

Sd/-

(S.SARASWATHI)

Member

Sd/-

(R.DHANDAPANI)

President